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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,026	04/10/2001	Gary Helms	108298613US	8349
25096	7590	03/13/2006	EXAMINER	
PERKINS COIE LLP PATENT-SEA P.O. BOX 1247 SEATTLE, WA 98111-1247			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,026

Applicant(s)

HELMS ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3, 9, 12, 17-19, 22-24, 28-30, and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kipp (5,890,136) in view of Horwitz et al. (6,496,806).

4. With respect to Claims 1, 11, 22, 32 and 36: Kipp discloses the use of an order database (26) that is used to pull inventory and for shipping (See abstract), where the orders are tracked (Column 2, lines 34-37) through an order database (Column 7, lines 16-18) and tracks the articles (Column 5, lines 47-64). However, Kipp fails to disclose the use of a unit order database that includes a record for each unit of each item of the order. Horwitz discloses the use of a method and system for tracking each individual item of a cluster of items (See abstract) that

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can be used for purchase order systems (Column 1, lines 17-63), where a record of each item is stored in a database, and each record is linked through a cluster, so that when the status of one item changes, the cluster changes (see Column 4, lines 40-57, Column 1, lines 1-20, and Column 8, lines 17-24). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kipp, to include the method and system of tracking each individual item of a cluster, as disclosed by Horwitz, in order to more accurately track items that are moved, handled or processed in clusters. (See Horwitz, Column 1)

5. Kipp and Horwitz discloses the use of individual units of an order being tracked separately, and when each individual record of the unit changes, then the cluster (or order) would change. The combination of Kipp and Horwitz fails to disclose the unit order database and order database be separate databases.

6. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the unit order database and order database be separate databases because Applicant has not disclosed that have separate databases provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the centralized database taught by Horwitz because both methods perform the same function of tracking items on a unit level, and updating on an individual basis.

7. Therefore, it would have been an obvious matter of design choice to modify Kipp and Horwitz to have the centralized database, be two separate databases.

8. With respect to Claims 2, 12, 23, 33 and 36: See Horwitz, Column 6, lines 9-19.

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9. With respect to Claims 3, 13, 24 and 34: See Horwitz, Column 6, lines 28-50.

10. With respect to Claims 7, 17 and 28: Horwitz discloses the updating of the database that contains the items happens when the items are moved from one storage location to another storage location (See Column 11, line 41 to Column 12, line 64). The examiner considers this to be a periodic basis, since the pallets are not moved on a continuous basis, but sit in storage and inventory.

11. With respect to Claims 8, 18 and 29: The items in Horwitz are tracked on a real time basis (column 12, lines 65), therefore multiple times a day, which the examiner considers to be done on a daily basis.

12. With respect to Claims 9, 19 and 30: See Column 12, lines 1-67.

13. Claims 4-6, 10, 13-16, 21, 25-27, 31 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kipp and Horwitz et al. as applied to claims 1, 11, 22 and 32 above, and further in view of Peachey-Kountz et al. (6,463,345).

14. With respect to Claims 4-6, 10, 13-16, 21, 25-27, 31 and 35: Kipp and Horwitz discloses the use of a purchase order and having a record for each item in an order that is shipped, but fail to disclose the order can be modified to increase or decrease the quantity of the order, and either adding a unit record or setting a record to cancelled. Peachey-Kountz discloses the use of orders where the quantity of items are changed and modified due to backorders or cancellation of orders (see Figures 5-7, Column 11, lines 53-67), and the record status is updated to reflect the change, (see Figures 5 and 6 with corresponding detailed description). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kipp and

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Horwitz, to include the capability of changing the order, and the records reflecting the change, in order to provide an improved reporting system. (See Peachey-Kountz, Column 9)

Response to Arguments

15. Applicant's arguments filed 12/20/05 have been fully considered but they are not persuasive.

16. With respect to Applicant's arguments that Horwitz does not disclose that the status of each item can be tracked separately: Horwitz, in Figure 1, discloses that individual tags are tracked separately while untagged, therefore disclosing that each unit or item can be and is tracked separately, and the status, whether unclustered, or with an associated cluster, is tracked separately. Horwitz discloses that the clustered can be broken up, and the items can be reclustered, therefore the status and the items are tracked separately and each record is of the item, is unique from the cluster. Even though there may be a link for the clustered items, each item has the ability to be tracked separately as seen by Figure 1.

17. With respect to Applicant's arguments that the databases being separate databases is not a matter of design choice: The applicant has stated that their techniques provide a method for interfacing with an existing order processing system to track orders at a unit level, therefore providing, in the specification, a reason for the databases to be separate; in order to allow for the unit order database, to be used with an already existing order database, so that the existing database, remains unchanged with the addition of the unit order database. However, the claims are claiming a method for providing both an order database, as well as a unit order database. The claims are not directed to a unit database which interfaces with an existing order processing

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system, which pulls information from an already existing order database. The claims as a whole provide for both databases, the combination of references, provides for records both on a unit level, and on an order (cluster) level. Therefore, each record is saved separately, and when can be tracked separately. Therefore as the claims are written, whether the records are stored all in one central database, or stored in two separate databases, the combination of elements, or the separation of elements is considered to be obvious to one of routine skill in the art. Therefore rejection stands as stated above.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

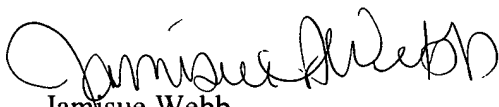
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

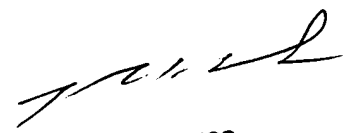
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jamisue Webb


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